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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,679	08/01/2001	Robert Kavet	009842-0243-999	5753

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Pennie & Edmonds, LLP  
3300 Hillview Avenue  
Palo Alto, CA 94304

EXAMINER

FOREMAN, JONATHAN M

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 10/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/920,679

Applicant(s)

KAVET ET AL.

Examiner

Jonathan ML Foreman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1 – 8, 10 – 14 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Masuo.

In reference to claim 1, Masuo discloses an apparatus for measuring current flow through a living body, comprising: data acquisition circuitry (21 a, b, Figure 4) consisting of a first contact and a second contact to generate voltage data; and a portable data processing unit (28) connected to the data acquisition circuitry to process the voltage data to produce current flow data (Col. 6, lines 26 – 31).

In reference to claim 2, Masuo discloses the portable data processing unit including acquired data conditioning circuitry (24) to condition a data signal from the first contact and the second contact (Col. 6, lines 22 – 25).

In reference to claim 3, Masuo discloses an amplifier (22) within the data conditioning circuitry.

In reference to claim 4, Masuo discloses data input interface circuitry (15) within the data processing unit (Col. 6, lines 26 – 31).

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In reference to claim 5, Masuo discloses a keypad (15, Figure 1) connected with the data input interface circuitry (Col. 5, lines 27 – 29).

In reference to claim 6, Masuo discloses an autonomous power source (31, Col. 6, lines 33 – 34).

In reference to claim 7, Masuo discloses data output interface circuitry (Col. 6, lines 26 – 33).

In reference to claim 8, Masuo discloses a visual display (16) being connected to the data output interface circuitry (Col. 5, lines 30 – 31).

In reference to claim 10, Masuo discloses a central processing unit (28) and a memory (26, 27) storing a set of executable programs (Col. 6, lines 26 – 31).

In reference to claim 11, Masuo discloses the memory storing body impedance data comprised of known body impedances (Col. 11, lines 53 – 55).

In reference to claim 12, Masuo discloses the known body impedances including estimated impedances (Col. 12, lines 41 – 46).

In reference to claim 13, Masuo discloses the known body impedances including calculated impedance measurements (Col. 11, line 65 – Col. 12, line 1).

In reference to claim 14, Masuo discloses the memory storing a parameter calculator that compares conditioned data with known body impedances to generate data on the current flow through the living body (Col. 12, line 65 – Col. 13, line 2).

3. Claim 16 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Masuo in view of Masuo et al.

In reference to claim 16, Masuo discloses an output module that controls the menu of a display (Col. 11, lines 23 – 48), but fails to disclose specifically that the display is an LCD display. However, Masuo et al. discloses a similar device (Figure 14) in which the display is an LCD display

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(Col. 4, line 53). It is inherent that the device as disclosed by Masuo has an LCD display based on the disclosure of the earlier embodiment of the invention by Masuo et al.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Masuo in view of Fukuda et al.

In reference to claims 9 and 15, Masuo discloses data output interface circuitry/module (Col. 6, lines 26 – 33), but fails to disclose connecting a compact removable flash memory card to the circuitry for storage. However, Fukuda et al. teaches an apparatus for measuring current flow through a living body (Figure 1) in which a compact removable flash memory card (51) is connected to the data output interface circuitry (Col. 4, lines 24 – 28). One skilled in the art at the time the invention was made would have been motivated to modify the data output interface circuitry as disclosed by Masuo to include the removable flash memory card as taught by Fukuda et al. in order to store the parameters used for the measurements and the measurement results of individuals. In this way, when an individual who has previously been tested returns, the data or parameters for individual can be entered from the memory card (Col. 4, lines 32 – 36).

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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U.S. Patent No. 5,938,593 to Ouellette

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703)-305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F Hindenburg can be reached on (703)308-3130. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-308-0758 for regular communications and (703)-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0858.



JMLF

October 11, 2002



**MAX F. HINDENBURG**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**